

§ 10.21 Waiver of compensation rights invalid.

No official superior or other person is authorized to require an employee or other claimant to enter into any agreement, either before or after an injury or death, to waive his or her right to claim compensation under the Act. No waiver of compensation rights shall be valid.

§ 10.22 Exclusiveness of remedy.

The benefits provided to employees and to survivors of employees by the Act constitute the exclusive remedy against the United States for employment related injuries or deaths. The injury or death of an employee gives rise to no right to recover damages from the United States exclusive of the Act.

§ 10.23 Penalties.

(a) Any employee, beneficiary, official superior, representative, or other person who knowingly makes, or knowingly certifies to, any false statement, misrepresentation, concealment of fact, or any other act of fraud with respect to a claim under the Act, or who knowingly accepts compensation to which that person is not entitled, is subject to criminal prosecution and may, under appropriate U.S. Criminal Code provisions (e.g., 18 U.S.C. 287 and 1001), be punished by a fine of not more than \$10,000 or imprisonment for not more than five years, or both.

(b) Any employee, beneficiary, official superior, representative, or other person who, with respect to a claim under the Act, enters into any agreement, combination, or conspiracy to defraud the United States by obtaining or aiding to obtain the payment or allowance of any false, fictitious or fraudulent claim is subject to criminal prosecution and may, under appropriate U.S. Criminal Code provisions (e.g., 18 U.S.C. 286), be punished by a fine of not more than \$10,000 or imprisonment for not more than ten years, or both.

(c) Any person charged with the responsibility of making reports in connection with an injury who willfully fails, neglects, or refuses to do so; induces, compels, or directs an injured employee to forego filing a claim; or willfully retains any notice, report, or

paper required in connection with an injury, is subject to a fine of not more than \$500 or imprisonment for not more than one year, or both.

[52 FR 10505, Apr. 1, 1987]

Subpart B—Notice of Injury and Claim for Compensation, Administrative Procedures

NOTICE OF INJURY OR DEATH

§ 10.100 How to file a notice of injury or death.

(a) *Traumatic injury.* An employee who sustains a traumatic injury which the employee believes occurred while in the performance of duty shall give written notice of the injury on Form CA-1 to the official superior. If the employee is unable to give written notice, it may be given by any person acting on the employee's behalf.

(b) *Occupational disease or illness.* An employee who has a disease or illness which the employee believes to be employment-related shall give written notice of the condition on Form CA-2 to the official superior. If the employee is unable to give written notice, it may be given by any person acting on the employee's behalf. If it is impractical to give written notice to the employee's official superior, it may be given to any official of the employing agency, or directly to the Office. Form CA-2 must be accompanied by a statement from the employee to include:

(1) A detailed history of the disease or illness with identification of part(s) of the body affected;

(2) Complete details of types of substances or conditions of employment believed responsible for the disease or illness;

(3) A description of specific exposures to substances or stressful conditions including locations, frequency and duration, and

(4) Whether the employee ever suffered a similar condition and, if so, full details of onset, history and medical care received with names and addresses of physicians rendering treatment.

(c) *Death.* If an employee dies because of a traumatic injury believed to have been sustained in the performance of duty or because of a disease or illness

believed to have been employment-related, the employee's survivor(s), or any person acting on behalf of the survivor(s), shall notify the official superior of the death. If it is impractical to give notice to the employee's official superior, it may be given to any official of the employing agency, or directly to the Office.

(d) The person submitting a notice under paragraph (a) or (b) of this section shall include the Social Security Number (SSN) of the injured worker. In cases where the worker dies as a result of an on-the-job injury and the notice is submitted under paragraph (c) of this section, the SSN of the person seeking benefits shall be disclosed in addition to the SSN of the deceased worker.

[52 FR 10505, Apr. 1, 1987, as amended at 58 FR 68032, Dec. 23, 1993]

§ 10.101 When a notice of injury or death must be given.

(a) *Traumatic injury.* Written notice of a traumatic injury or death due to a traumatic injury shall be given as soon as possible but, pursuant to 5 U.S.C. 8119, no later than 30 days from the date on which the injury or death occurred. Given the provisions of 5 U.S.C. 8122 and § 10.105 of this part concerning the timely filing of a claim for compensation, the failure to give notice within 30 days may result in a loss of compensation rights.

(b) *Occupational disease or illness.* Written notice of disease or illness believed to be employment related shall be given as soon as possible but no later than 30 days from the date on which the employee was first aware, or by the exercise of reasonable diligence should have been aware, of a possible relationship between the disease or illness and the conditions or factors of employment. Given the provisions of 5 U.S.C. 8122 and § 10.105 of this part concerning the timely filing of a claim for compensation, the failure to give notice within 30 days may result in a loss of compensation rights.

(c) *Death.* In the case of death, notice shall be given as soon as possible but no later than 30 days from the date of death or the date the employee's survivor first became aware, or by the exercise of reasonable diligence should

have been aware, of a possible relationship between the death and the conditions or factors of employment. Given the provisions of 5 U.S.C. 8122 and § 10.105 of this part concerning the timely filing of a claim for compensation, the failure to give notice within 30 days may result in a loss of compensation rights.

[52 FR 10506, Apr. 1, 1987]

§ 10.102 Report of injury by the official superior.

(a) As soon as possible but no later than 10 working days after receipt of written notice of injury from the employee, the official superior shall submit to the Office a written report of every injury or occupational disease or illness which is likely to:

(1) Result in a medical charge against the Office;

(2) Result in disability for work beyond the day or shift of injury;

(3) Require prolonged treatment (i.e., more than two instances of medical examination and/or treatment);

(4) Result in future disability;

(5) Result in permanent impairment or;

(6) Result in a continuation of pay pursuant to 5 U.S.C. 8118.

Portions of Forms CA-1 or CA-2 are provided for this purpose. If the injury does not come under any of the categories enumerated in this paragraph, the Form CA-1 or CA-2 need not be submitted to the Office but shall be retained as a permanent record in the Employee Medical Folder in accordance with the guidelines established by the Office of Personnel Management. Regardless of whether the Form CA-1 or CA-2 is forwarded to the Office or retained by the employing agency, immediately upon receipt of the written notice of injury the official superior shall complete the "Receipt of Notice of Injury" and return it to the employee.

(b) If the official superior has reason to disagree with any particular of the injury as reported by the employee, the official superior or other agency official shall explore the circumstances of the injury and submit to the Office a full written explanation specifying the areas of disagreement and the findings upon which the disagreement is based. The report may be accompanied by